IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6919 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE A.M.KAPADIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

RAMDEVSINH BALSINH ZALA

Versus

GUJARAT STATE ROAD TRANSPORT CORP.

Appearance:

1. Special Civil Application No. 6919 of 2002

MR MAULIK J SHELAT for Petitioner No. 1

MR ASHISH M DAGLI for Respondents

CORAM : MR.JUSTICE A.M.KAPADIA

Date of decision: 14/10/2002

ORAL JUDGEMENT

Rule. Mr. Ashish Dagli, learned advocate appears and waives service of notice of rule on behalf of the respondents.

2. By means of filing this petition under article 226 of the Constitution, petitioner, who is running STD/ISD/PCO booth at Rajkot Bus Stand No.2 on the leave and licence basis, which is expiring on October 17, 2002, and has filled a fresh tender, has prayed to issue a writ of mandamus or any other appropriate writ, order or direction to the Respondents and further to declare the action of the Respondents not calling upon the petitioner for the negotiation for the telephone booth in question as per the settled norms of Respondent No.1 by way of circular is violative of Articles 14 and 19(1)(g) of the Constitution.

3. Mr. Ashish Dagli, learned advocate for the petitioner, upon instructions received from the respondent Corporation makes a statement that pursuant to the public advertisement inviting tenders, the respondent Corporation has received seven offers, one from the petitioner and other six from other parties. He further states that the respondent Corporation will call the petitioner for negotiation before allowing any third party to take over the possession of the STD/ISP/PCO booth from the petitioner, as prayed for by the petitioner in this petition.

4. Mr.M.J.Shelat, learned advocate for the petitioner states that till the process of tender is finalised, the respondent Corporation may be directed not to give the possession of the STD/ISD/PCO booth to any third party.

5. Having considered the submissions advanced by the learned advocates appearing for the parties, and on having perusal of the averments made in the memo of the petition, grounds set out therein and in the facts and circumstances emerging from the record of the case, I am of the opinion that this petition deserves to be disposed of on following terms:

i) The Respondent Corporation shall call the petitioner for negotiations before finalising the tender filled in by the petitioner as well as other six.

ii) Till the tender process is completed, the respondent Corporation is directed not to give possession of the STD/ISD/PCO to any third party.

iii) The petitioner shall also pay the regular licence fees for the period for which the petitioner

shall continue to occupy the said place.

iv) If the petitioner fails to give higher offer in the negotiation and the respondent Corporation decides to give the possession of the STD/ISD/PCO to any third party, the petitioner shall hand over the possession of the same to the respondent Corporation forthwith.

5. In view of the aforesaid observations and directions, the petition stands disposed of with no order as to costs. Rule is made absolute to the aforesaid extent.

(A.M.Kapadia,J)

Jayanti*